No. 84-1244

IN THE

Supreme Court of the United States

OCTOBER TERM, 1984

SUSAN J. DAVIS, *et al.*,

Appellants,

VS.

IRWIN C. BANDEMER, *et al.*,

Appellees.

Appeal From The United States District Court For The Southern District of Indiana

MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF AND AMICUS CURIAE BRIEF OF THE MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND

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QUESTIONS PRESENTED

1. Whether partisan gerrymandering is justiciable?

2. Whether the votes-to-seats ratio utilized by the court below conflicts with prior decisions of this Court and threatens discrimination against Hispanics?

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APPEAL FROM THE UNITED STATES
DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF INDIANA

MOTION OF MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND FOR LEAVE TO FILE BRIEF AMICUS CURIAE

Pursuant to Rule 42.2.(b) of the Rules of this Court, the Mexican American Legal Defense and Educational Fund (MALDEF)

respectfully move for leave to file a brief as amicus curiae in support of appellants Susan J. Davis, et al. Appellants and NAACP plaintiffs have consented to the filing of this brief; appellees refuse consent.

Interest of Amicus Curiae

The Mexican American Legal Defense & Educational Fund (MALDEF) is a national civil rights organization established in 1968. Its principal objective is to secure the civil rights of Hispanics living in the United States through advocacy, education and litigation.

MALDEF has long been active in reapportionment and redistricting issues. It has litigated White v. Regester, 412 U.S. 755 (1973), and City of Lockhart v. U.S., 460 U.S. 125 (1983), before this Court. Currently MALDEF represents one of the respondents in Ketchum v. Byrne, 740 F.2d 1398 (1984), cert. pend. sub nom. City

Council of City of Chicago v. Ketchum, 84-627, October 18, 1984.

Reapportionment is of vital concern to the Hispanic community. MALDEF's interest in the instant litigation is based on the concern that Hispanics will be adversely affected in future reapportionments if the standard applied by the court below is allowed to stand. The lower court emphasized compactness and compared voter turnout to electoral seats won in deciding whether a prima facie case of partisan gerrymandering existed. Because of the unique demographics of the Hispanic community, such a proportional standard will have a devastating impact on the ability of Hispanics to have districts fairly drawn. Indeed, the lower court's proposed standard conflicts with prior decisions of this Court concerning proportional representa-

tion and federal and constitutional provisions protecting minority voting rights.

STATEMENT OF THE CASE

The court below, a three judge panel appointed pursuant to 28 U.S.C. §2284, in an unpublished opinion,[1] invalidated the 1981 Indiana House and Senate reapportionment plans and held that Indiana Democrats were the victims of a partisan gerrymandering by the Republican leadership of the Indiana legislature (A-32-33).

The Honorable James E. Noland, Chief District Judge, writing for the majority,[2] found that it was "significant . . . that in 1982 Democratic candidates for the Indiana House earned 51.9 percent of

[1]All references to the trial court's opinion in this brief are to Appendix A of the Appellant's Jurisdictional Statement.

[2]The Presiding Judge, the Honorable Wilbur F. Pell, Jr., dissented on the partisan gerrymander issue.

all votes cast across the state. However, only 43 Democrats were elected to seats" out of the 100 House seats up for election (A-11). The Court found that "the disparity between the percentage of votes and the number of seats won is, at the very least, a signal that Democrats may have been unfairly disadvantaged by the redistricting." (A-12)[3]

The Court then examined the shapes of the districts to determine whether a partisan gerrymandering occurred. The Court found "a lack of any consistent application of 'community of interest'[4] principles."

[3]In the Indiana Senate the Court found that of the 25 seats which were up for election, the Democrats won 53.1 percent of the vote and 13 Senate seats. (A-12)

[4]The Court defined "community of interest" as the inclusion of citizens in a given legislative district who share a geographic area, with similar concerns and needs to be met by their state legislators." A-14

(A-14) Using Marion County as an example, the Court found the "shapes are unusual for a number of reasons, notably because of the necessity of adding townships from contiguous counties to preserve the 15-seat Marion County delegation to the Indiana House despite a population decrease." (footnote omitted) (A-15)

The court further found that "[t]hese districts are particularly suspect with respect to compactness." In scrutinizing District 48, the Court found that the district formed the letter "C" around the central city of Indianapolis. (A-15)

The court next examined the motivation of the Republican leadership in adopting the Indiana reapportionment plan. Other than a concern for the one person, one vote principle and a concern about no "retrogression" of black representation from prior years, the court found "most notably"

that the majority party wished to "insulate itself from the risk of losing its control of the General Assembly." (A-17)

Finally, the Court examined the use of multimember districts in the House plan. The Court "found that the disadvantaging effect of the plan's multimember districts falls particularly hard and harsh upon black voters in the state." The court found that 81.2 percent of blacks as compared to 35 percent of whites lived in multimember districts, and that only 43 percent of the blacks lived in multimember districts where blacks comprise a majority of the voters. (A-18)[5]

[5]The NAACP, in a separate law suit which was later joined to this case, also challenged the Republican reapportionment plan as having intentionally fragmented the black population concentrations in violation of the 14th and 15th amendments and as having perpetuated the effective dilution of black voting strength in violation of section 2 of the Voting Rights Act of 1965, 42 U.S.C. §1973j, as amended 1982.

The court below ruled against the

In the trial court's Analysis and Conclusions of Law, it did not discuss the justiciability of partisan gerrymandering nor review this Court's prior determinations on this issue. Instead, based upon Justice Stevens' concurring opinion in Karcher v. Daggett, 462 U.S. 725 (1983), it concluded that the "district lines were drawn with the discriminatory intent to 'maximize the voting strength' of the Republican Party and to 'minimize the strength' of the Democratic Party. . . . and therefore . . . violat(ed) . . . the Equal Protection Clause in the form of political gerrymandering. . . ." (A-25)

NAACP plaintiffs holding "that the voting efficacy of the NAACP plaintiffs was impinged upon because of their politics and not because of their race." (A-20)

SUMMARY OF ARGUMENT

The court below leaped into a political quagmire when it determined without analysis of prior case law that partisan gerrymandering constitutes a justiciable claim under the equal protection clause of the 14th amendment. In Baker v. Carr, 369 U.S. 186 (1962), this Court transformed a constitutional right into a judicially enforceable right because there was a clear and neutral standard -- one person, one vote -- by which the judiciary could measure compliance with the constitutional mandate of equal protection.

But no such standards exists to evaluate claims of partisan gerrymandering. To be sure, there are criteria which can be used in drawing districts, but they are not neutral. Many of the more popular criteria--compactness, respect for local political boundaries, community of interest, -- may

conflict with one another or conflict with other constitutional principles such as equality of population, or dilution of minority voting rights.

In formulating a standard by which to evaluate partisan gerrymandering, the court below emphasizes compactness[6] and compares the popular votes cast statewide with the number of seats won to determine the extent of partisan gerrymandering. If this

[6]The trial court's emphasis on compactness will seriously dilute Hispanic political representation. In many areas of the Southwest, Mexican Americans sprawl throughout a geographic area, e.g., along a meandering river valley, crossing city or county boundaries. An emphasis on compactness as opposed to community of interests will completely submerge the electoral strength of the Hispanic community. See, B. Cain, The Reapportionment Puzzle 46-68 (University of California Press 1984); see also, Jordan v. Winter, No. GC 82-80-WK-0 (N.D. Miss., April 16, 1984), aff'd sub nom. Brooks v. Allain in Mississippi Reublican Executive Committee v. Brooks, U.S. ___, 105 S.Ct. 416 (1984) (sprawling uncompact districts in court ordered interim plan adopted to assure fair racial representation).

approach is allowed to stand, it will draw the trial court into conflict with this Court's rulings on the one person, one vote principle, and its prohibition against proportional representation. Ultimately, it will unlawfully dilute minority, especially Hispanic, representation.

In Burns v. Richardson, 384 U.S. 73, this Court warned against using voter registration and voter turnout as a guide to apportioning districts. Because Hispanics and other minority groups have been the victims of discrimination in the political process, and because they are younger, have lower education and income levels, and have higher unemployment and poverty rates than the dominant groups in American society, minorities, especially Hispanics, are less likely to be politically active, to register and to vote. The effect of the trial court's votes-to-seats-won standard for

determining a prima facie case of partisan gerrymandering is that Districts will be drawn primarily reflecting voter turnout, thus perpetuating underrepresentation of Hispanics and other minority groups in American society. The political gains that Hispanics and other minorities have made over the last decade will be eroded.

ARGUMENT

I.

CLAIMS OF PARTISAN GERRYMANDERING ARE NOT JUSTICIABLE BECAUSE THERE ARE NO NEUTRAL AND NON-PARTISAN JUDICIALLY MANAGEABLE CRITERIA TO GUIDE THE COURT.

The court below leaped into a political quagmire when it decided without analysis of prior case law[7] that partisan gerrymandering constitutes a justiciable claim under the equal protection clause of the 14th amendment. This imprudent judg-

[7]The Court below was bound by precedent of this Court and by the 7th Circuit. In WMCA, Inc. v. Lomenzo, 382 U.S. 4 (1965), this Court summarily affirmed a three judge district court decision rejecting a constitutional challenge for partisan gerrymandering to a a New York legislative reapportionment. Lower courts are bound by summary decisions of the Supreme Court. Hicks v. Miranda, 422 U.S. 332, 344-45 (1975). The 7th Cir., in Cousins v. City Council of the City of Chicago, 466 F.2d 830, at 844, cert. denied, 409 U.S. 893 (1972) followed WMCA, holding that partisan gerrymandering is nonjusticiable.

ment contravenes the efforts of this Court to move cautiously and forcefully in closely scrutinizing "highly suspect" governmental classifications which discriminate on the basis of race, color or national origin[8].

In Baker v. Carr, 369 U.S. 186 (1962), this Court significantly clarified the 'political questions doctrine'[9] and

[8]The classic statement of this issue is Justice Stone's footnote in United States v. Carolene Products Co., where he states:

> "legislation . . . (may) be subjected to more exacting judicial scrutiny (when) . . . directed at particular religious, . . . or national, . . . or racial minorities . . . .(P)rejudice against discrete and insular minorities may be a special condition, which tends seriously to curtail the operation of those political processes ordinarily to be relied upon to protect minorities, and which may call for a correspondingly more searching judicial inquiry." 304 U.S. 144, 152-53 at n. 4 (1938)(Emphasis added.)

[9]Many of the 'political question' guidelines considered and overcome by the Court in the case of challenges to malapportioned districts based on population inequality

required states to fairly apportion districts on an equal population basis. The Court in Baker was able to transform a constitutional right into a judicially enforceable one because there was a nonpartisan and neutral "judicially manageable" standard -- one person, one vote -- by which the judiciary could measure compliance with the Constitutional mandate of equal protection.

are much more problematic in cases challenging partisan gerrymandering:

> "Prominent on the surface of any case held to involve a political question is found . . . a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; . . . ." 369 U.S. at 217. (Emphasis added.)

Claims of partisan gerrymandering are a political quagmire precisely because no neutral nor nonpartisan standards exist to impartially judge this phenomena. There are, to be sure, criteria which can be used in drawing districts. But they are judgment laden, not neutral, criteria and they are not constitutionally mandated. Many of the more popular criteria -- compactness, respect for local political boundaries, community of interest, -- reflect political values[10] and may conflict with one

[10] Political groups are not spread evenly throughout a state. The choice of where to place political boundaries and what priority one standard ought to have over another reflects a political value. For example, as between two competitive groups, compactness will favor a group which is evenly spread throughout an entire state because of the "wasting" of votes which is likely to occur if the other group is highly concentrated in large numbers in a few areas.

another[11] or conflict with other constitutional principles such as equality

[11] Community of interest may conflict with compactness. For example, if an agricultural community surrounds a large urban area, the choice may be between a donut shaped district (reflecting priority given to two separate community of interests) or two nicely shaped districts, resulting in the complete submergence of agricultural interests to urban interests (reflecting a preference for compactness).

Likewise, respect for local political boundaries may conflict with the compactness principle especially if an urban area has an unusual geographic shape. See, e.g., U.S. Bureau of the Census, Congressional Districts of the 99th Congress (California), sheets 10 and 11, pp. 93-94 (1985) (political boundaries of the City of Industry, California, has long tentacles reaching across the San Gabriel Valley).

The community of interests of minority groups sometimes come into conflict with the compactness principle. Hispanic voters, for example, sprawl throughout the Los Angele County area. Because of the unique demographics of the Hispanic community (see footnotes 23-28, infra), Hispanic electoral strength will be completely diluted if the compactness principle is followed. See, authorities cited in footnote 6, supra.

of population,[12] or prohibitions against dilution of minority voting rights.[13]

[12]Since population equality is paramount, especially in Congressional reapportionment, (see Karcher v. Daggett, supra,) local jurisdictions sometimes must be split. This may be necessary on occasion, depending upon the location of the jurisdiction within a state, even if a local jurisdiction is the exact size as a Congressional District because of the "ripple effect" of evenly dividing a population throughout a state.

[13] The classic case of racial gerrymandering is Gomillion v. Lightfoot, 364 U.S. 339 (1960). It is not inconceivable that a City like Tuskegee could draw its councilmanic districts including its 40% black population within the jurisidiction of the city and at the same time exclude them from political power using "neutral" principles such as compactness. The city lends itself to one at large mayoral position and four councilmanic districts drawn on a north-south and east-west axis. Because of the location of the black population within the city of Tuskegee, see 364 U.S. at 389 (chart showing the City of Tuskegee, Alabama), such a "neutral" plan would effectively eliminate black political participation.

II.
THE VOTES-TO-SEATS RATIO OFFENDS PRIOR DECISIONS OF THIS COURT AND UNLAWFULLY DISCRIMINATES AGAINST HISPANICS.

The court below compares the 1982 popular statewide Democratic vote (51.8%) in the Indiana House with the number of seats won (43%) by the Democrats as a means of determining whether there was partisan gerrymandering. By focusing on the ratio of actual votes cast to number of seats won, the court offends the one person, one vote standard, comes perilously close to adopting a rule of proportional representation -- an outcome which neither this Court, (see Mobile v. Bolden, 446 U.S. 55, 76, 86, 1980), nor Congress (see Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973) has ever condoned, and

unlawfully dilutes Hispanic voting rights.[14]

This Court has warned against the use of both voter registration and voter turnout criteria as a guide to apportioning districts:

> "Use of a registered voter or actual voter basis presents an additional problem. Such a basis depends not only upon criteria such as govern state citizenship, but also upon the extent of political activity of those eligible to register and vote. Each is thus susceptible to improper influences by which those in political power might be able to perpetuate underrepresentation of groups constitutionally entitled to participate in the electoral process, or perpetuate a 'ghost of prior malapportionment.' Burns v. Richardson, 384 U.S. 73, at 92-93 (1985)

Hispanic groups in the United States have a lower voter turnout compared to other groups in American society.[15]

The reasons for the low Hispanic voter turnout are varied. Historically, Mexican Americans and Puerto Ricans, the two largest Hispanic groups[16], have been

[14]There are additional problems with the votes-to-seats ratio. While the ratio seems to be an easy method to measure partisan gerrymanding, the votes-to-seats ratio oversimplifies the electoral and reapportionment processes.

The court below did not analyze many of the complexities present in the electoral process which may account for a discrepancy in the votes-to-seats ratio. For example, a few of the factors influencing the votes to seat ratio include: the number of candidates who were incumbents; the amount of money raised and spent by each candidate; the number of votes cast for unopposed candidates; the political affiliation of the unopposed candidates; the significance of local, regional, state or national issues affecting the outcome of a particular election.

[15]According to the Census Bureau, the percentage of individuals registered to vote in 1982 are: Whites-65.6%; Blacks-59.1%; Hispanics-35.3%. The percentage of individuals who actually voted in 1982 are: Whites-49.9%; Blacks-43.0%; Hispanics-25.3%. U.S. Bureau of the Census, Statistical Abstract of the United States: 1985, 254 (1984)(hereinafter cited as Statistical Abstract of the United States: 1985).

[16]Of the 14.6 million Hispanics enumerated by the 1980 census, 60% were of Mexican origin, 14% of Puerto Rican origin, 5% of Cuban origin, and 21% of other Spanish origin. U.S. Bureau of the Census, General

victimized by discrimination in every conceivable public and private enterprise from jury selection,[17] to segregated

Population Characteristics, United States Summary, PC80-1-B1, 1-14 (1981)

[17]See, e.g., Hernandez v. Texas, 347 U.S. 475 (1954); Castaneda v. Partida, 430 U.S. 482 (1977); see generally, U.S. Comm. on Civil Rights, Mexican Americans and the Adminitration of Justice in the Southwest (1970).

schools,[18] housing,[19] public accommodations,[20] employment,[21] and the political

[18]See, e.g., Keyes v. School District No. 1, Denver, Colorado, 413 U.S. 189 (1973); Cisneros v. Corpus Christi ISD, 467 F.2d 142 (5th Cir. 1972); U.S. v. Texas Education Agency (Austin I), 467 F.2d 848 (5th Cir. 1972)(en banc); Independent School District v. Salvatierra, 33 S.W.2d 790 (Tex.Civ.App.-San Antonio 1930), cert. den., 284 U.S. 580 (1931); Tex.Att'y Gen.Op., May 27, 1925 (bond approval for Mexican-American schools); see generally, U.S. Comm. on Civil Rights, Mexican American Education Study 1967-1974, cited with approval by this Court in Keyes, supra, at 197 (N. 7, 8).

[19]See, e.g., Clifton v. Puente, 218 S.W.2d 790 (Tex.Civ.App. 1930)(restrictive covenants against persons of Mexican descent).

[20]See, e.g., Tex.Att'y Gen.Op., No. V-150 at 45 (1947)(Mexican Americans barred from swimming pools); see also, Rangel, De Jure Segregation of Chicanos in Texas Schools, 7 Harv.Civ.Rts. & Civ.Lib.L.Rev. 307 (1972) (Mexican Americans not served in restaraunts, drug stores, barber shops, beauty shops, theaters, hotels, bowling alleys, cemeteries).

[21]Employment discrimination by both public and private employers has been extensively documented. See, e.g., Garcia v. Victoria ISD, 17 EDD 8544 (S.D.Tex. 1978); Sabala v. Western Gillette, Inc., 516 F.2d 1251 (5th Cir. 1975); Saucedo v. Brothers Well Service, Inc., 498 F.2d 641 (5th Cir. 1974);

process itself.[22] This governmental and societal discrimination is responsible in part for Hispanics having lower educational[23], employment[24] and family income[25]

Moreno v. Henckel, 431 F.2d 1299 (5th Cir. 1970); Sanchez v. Standard Brands, Inc., 431 F.2d 455 (5th Cir. 1970).

[22]See, e.g., Graves v. Barnes, 343 F. Supp. 704 (W.D. Tex. 1972)(three judge court), aff'd in pertinent part, sub nom, White v. Regester, 412 U.S. 755 (1973). See also, Senate Report No. 94-295, 1975 U.S. Code Congressional and Admin. New. 775, 790-97; House Report No. 94-196 (Hearings on Extension of Voting Rights Act to Texas).

[23]The 1985 Statistical Abstract provides the following 1983 comparative data on the racial and national origin background of individuals over 25 years of age who have completed 4 years of high school or more: White-73.8%; Black-56.8; Mexican American-41.1%; Puerto Rican-41.6%; Cuban-51.8%; Other Spanish origin-62.3%. Statistical Abstract of the United States: 1985, Table 217, p. 136 (1984)

[24]The 1983 Current Population Survey reveals the following unemployment rates for the following groups: Whites-8.4; Blacks-19.5; Mexican-American-17.4; Puerto Rican-18.0; Other persons of Spanish Origin-13.2. Statistical Abstract of the United States: 1985, Tables 35, 36, 39, pp. 32,34 (1985)

levels than the dominant groups in American society. Furthermore, Hispanics are much younger than most other groups in American society and thus have fewer eligible

[25]The 1983 Current Population Survey provides the 1982 median income levels for the following groups: Whites-$24,603; Blacks-$13,599; Mexican-Americans-$16,399; Puerto Ricans-$11,148; Other Spanish Origin-$18,996. It also has the percentage of the population living below poverty level: Whites-12%; Blacks-35.5%; Mexican-American-30%; Puerto Ricans-46.3%; Other Spanish Origin-19.8%. Id.

voters.[26] Since it is an axiomatic principle of American political science that voter registration and turnout is directly correlated to age, education and income[27],

[26]According to the Census Bureau, 72.8% of the U.S. population is voting age compared to 59% for Mexican Americans, 58.5% for Puerto Ricans, and 66.9% for other Spanish origin. Statistical Abstract of the United States: 1985, Table 40, p. 34 (1985).

Voter turnout is directly proportional to age; i.e., older citizens vote more often than younger ones. See, e.g., Statistical Abstract of the United States: 1985, Table 425, p. 254 (1984)

This phenomenon has a greater impact on the Hispanic community because it has fewer individuals over the age of 65 (3.7% for Mexican Americans, 2.5% for Puerto Ricans, and, 6.3% for other Spanish origin) than the U.S. population as a whole (11.2% of all persons are 65 or over). Id., Table 40, p. 34.

[27]This is because, in part, the elderly and those with higher income and education have more leisure time to become involved in politics. Likewise, the lelvel of political skills needed to become involved in politics is more closely aligned to the skills of white collar workers than the skills of blue collar workers. See R. Wolfinger & S. Rosenstone, Who Votes, 15-60 (Yale 1980); A. Campbell, P. Converse, W. Miller, & D. Stokes, The American Voter 49-64 (Wiley & Sons 1964); S. Verba & N. Nie, Participation in America 149-173 (Harper &

it should not be surprising that Hispanics have a lower level of political participation.

Additionally, Hispanics tend to concentrate in the inner city,[28] with other minorities and the working poor. Since they share similar socioeconomic concerns, they comprise districts which tends to favor a single political party. Thus, any contest emerging between candidates will most heavily be waged during the primary. After the primary, the election outcome is

Roe 1972).

[28]According to the Census, 53.1% of Hispanics live in central cities, as compared to 59.7% of Blacks and 27% of Whites; 37% of Hispanics live outside central cities (i.e., suburbs), as compared to 22.3% of Blacks and 47.5% of Whites; and, 11.9% of Hispanics live outside metropolitan areas (i.e., rural areas), as compared to 18% of Blacks and 25.5% of Whites. Statistical Abstract of the United States: 1985, Table 20, p. 17 (1984).

usually already known, so there is less reason to vote in the general election.[29]

If this Court affirms the votes-to-seats ratio even as part of a broader test for partisan gerrymandering, it will have a devastating impact on minority, and especially Hispanic, representation because of the above-cited factors which lead to lower

[29]For example, the South-Central and Eastern portions of the city of Los Angeles are made up of primarily Black and Hispanic voters. The following 1984 General Election data for assembly districts which are physicially adjacent to one another in the above-mentioned areas reveals the following voter turnout for Black and Hispanic incumbants:

A.D.	Incumbent	Votes (%)
47	Hughes	45,039 (87.0)
48	Waters	59,507 (85.8)
49	Moore	81,117 (76.0)
50	Tucker	70,716 (79.5)
55	Alatorre	44,505 (70.1)
56	Molina	26,981 (81.5)
59	Calderon	55,869 (67.1)

Source: Secretary of State, State of California, Official Canvass of the Vote, November 6, 1984, General Election, 19-20 (December 15, 1984)

minority voter turnout. For example, in Southern California, the upper income, suburban and primarily white congressional

districts average more than 100,000 voters per congressional district[30] when contrasted with lower income, urban and primarily minority congressional districts.[31]

If the trial court's prima facie standard for determining partisan gerrymandering is followed, districts will be drawn by legislators with voter registration and turnout as the chief criteria so as to avoid challenges of partisan gerrymandering. In many instances, the effect will be to submerge racial and ethnic minority interests and perpetuate the

[30]The following table contrasts total votes cast in six minority (3 Hispanic and 3 Black) and six high income (primarily white) Congressional Districts in Southern California during the 1984 General Election Campaign:

Six Southern California Urban and Minority Held Districts:

CD	Incumbant	Total Votes Cast
25	Roybal	103,599
28	Dixon	149,517
29	Hawkins	125,558
30	Martinez	124,333
31	Dymally	142,349
34	Torres	145,527
TOTAL VOTES CAST: 790,883		
(131,813 average votes)		

Six Southern California Suburban High Income and White Districts:

39	Dannemeyer	230,677
40	Badham	254,974
41	Lowery	253,846
42	Lungren	243,619
43	Packard	223,517
45	Hunter	198,307
TOTAL VOTES CAST: 1,404,940		
(234,157 average votes)		

Source: Secretary of State, State of California, Official Canvass of the Vote, November 6, 1984, General Election, 7-9 (December 15, 1985)

[31]The above-referenced groups of Congressional districts in the previous footnote compare as follows: the upper income group has a median family income of $25,275 compared to $14,960 for the low income group; 83% of the upper income group have completed high school compared to 56.8% of the low income group; the upper income group is composed of 2% Black and 11% Hispanic as compared with the low income group which is composed of 23% Black and 42% Hispanic. U.S. Bureau of the Census, Congressional Districts of the 99th Congress: California, Tables 1, 4, 6, 7, pp. 5-6, 26-27, 36-38, 45-50, PHC80-4-6 (Calif.), February 1985.

underrepresentation of Hispanics and other minority groups.

CONCLUSION

For the reasons discussed herein, the Court should reverse the decision of the court below.

Respectfully submitted,

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